

ORDINANCE NO. 81-7

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE NO. 73-2, THE PALM BEACH COUNTY ZONING CODE; TO INCLUDE A SECTION TO BE KNOWN AS THE "PALM BEACH COUNTY NOISE ORDINANCE" PROVIDING FOR TITLE; DECLARATION OF LEGISLATURE FINDING; DECLARATION OF INTENT; DEFINITIONS; MAXIMUM PERMISSIBLE SOUND LEVELS, GENERAL PROHIBITIONS; SPECIFIC PROHIBITIONS; VARIANCE PROCEDURE; EXEMPTIONS; PUBLIC NUISANCE/INJUNCTIVE RELIEF; OTHER REMEDIES; SEVERABILITY OF INVALID PROVISIONS; REPEAL OF CONFLICTING LAWS; EFFECTIVE DATE.

WHEREAS, excessive or unusually loud noise interferes with the peaceful enjoyment of residential property, can cause hearing loss, interferes with sleep, distracts from individual pursuits and can cause serious annoyance and irritation to residents of Palm Beach County; and

WHEREAS, excessive sound levels constitutes a menace to the public health, welfare, and the quality of life in Palm Beach County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

SECTION I

Subsection 500.16 B. of Ordinance No. 73-2, as amended, is hereby amended to read as follows:

500.16 B. Miscellaneous Standards1. Scope.

All uses and activities permitted as of right, special exception, or special permit in any district shall conform to the standards of performance described below and shall be so constructed, maintained, and operated so as not to be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious waste materials, odors, fire and explosive hazard or glare.

2. Noise.A. Title

This Ordinance may be cited as the Palm Beach County Noise Ordinance.

B. Declaration of Legislative Finding

The intent and purpose of this Ordinance is to eliminate, regulate and restrict sources and occurrences of noise and disturbances which interfere with the peaceful enjoyment of residential property and which are contrary to public welfare and constitute a nuisance to the public at large.

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C. Declaration of Intent

The intent and purpose of this Ordinance is to eliminate, regulate and restrict sources and occurrences of noise and disturbances which interfere with the peaceful enjoyment of residential property and which are contrary to public welfare and constitute a nuisance to the public at large.

D. Definitions

As used in this subsection, unless the context clearly indicates otherwise, the terminology defined below shall be applicable. Any terminology not defined below shall be interpreted in conformance with the applicable publication of the American National Standards Institute or its successor body.

1) A-WEIGHTED SOUND PRESSURE LEVEL - the sound pressure level as measured with a sound level meter using the A-Weighting Network. The standard notation is dB(A) or dBA.

2) ANSI means the American National Standards Institute or its successor bodies.

3) COMPLAINING PROPERTY means that property which is included in a residential district receiving sound levels including but not limited to lots, parcels, tracts, or individual dwelling units.

4) CONSTRUCTION WORK means any site preparation assembly, erection, substantial repair, alteration, demolition or similar action, on public or private rights of way, structures, utilities or similar property pursuant to lawful authority.

5) COUNTY means Palm Beach County, Florida.

6) dBA means the total sound level of all noise as measured with a sound level meter using A-Weighting Network. The unit is decible based on a reference sound pressure of .0002 microbars.

7) DIRECTOR means the Director of the Palm Beach County Planning, Zoning and Building Department or his authorized agent.

8) ENFORCEMENT OFFICIAL shall mean and refer to any person authorized to enforce the provisions of this Ordinance including, but not limited to, Sheriffs, Zoning, Building or Health Inspectors.

9) EMERGENCY WORK means work made necessary to restore property to a safe condition following a calamity or work required to protect persons or property from imminent exposure to danger.

10) PERSON means individuals, children, corporations, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries and all other groups or combinations thereof.

11) RESIDENTIAL DISTRICT means any area which is zoned residential under the Palm Beach County Zoning Code Ordinance No. 73-2 as amended. As of the effective date of this Ordinance, these residential zones are RE, RT, RS, RM and RH. Any creation of additional residential zones by amendment to the Zoning Code or rezoning of property to residential status which occurs after the effective date of this code, shall be automatically included in the residential district for purposes of this Ordinance. Further, any boundary roads surrounding the residential district shall be deemed to be included in said district.

12) SOUND LEVEL means the weighted sound pressure obtained by use of a metering characteristic with an A-Weighting as specified in the ANSI specifications for sound level meters.

13) SOUND LEVEL METER means an instrument which includes a microphone, amplifier and output meter, and frequency weighting networks for the measurement of noise and sound levels in a manner to meet ANSI standards.

14) SOURCE PROPERTY means the property from which the subject sound is originating including public or private streets, sidewalks or other public or open space areas.

15) FIXED MECHANICAL EQUIPMENT shall mean mechanical equipment, such as an air conditioning unit, water cooling tower, swimming pool pump, irrigation pump, well water pump, fan, power generator or other similar power source equipment, permanently affixed to real property, as distinguished from temporary, portable, non-fixed mechanical equipment.

E. Maximum Permissible Sound Levels, General Prohibition

No person shall operate or cause to be operated any source of sound from any location in such a manner as to create a sound level which exceeds the limits set forth in Table 1 for inhabited residential receiving land more than ten percent (10%) of any measurement period, which period shall not be less than ten minutes when measured at or within the property boundary of the complaining property. A violation of this Ordinance shall have occurred without the occasion of the measurements being made as provided herein if circumstances are such that the offending sound, because of its

very nature, is usually loud and obviously offensive to a reasonable prudent person or ordinary sensitivity situated upon the complaining property.

Sound Level Measurement shall be made with a Type 2 or better sound level meter using the A-Weighting Scale in accordance with the standards promulgated by the American National Standards Institute (ANSI).

Measurement Location: All measurements shall be made with a sound meter at or within the boundary of the complaining property.

TABLE 1

MAXIMUM PERMISSIBLE SOUND LEVELS FOR INHABITED RESIDENTIAL RECEIVING LAND

<u>Receiving Land</u>	<u>Noise Source</u>	<u>Time</u>	<u>Sound Level Limit</u>
Inhabited Residential Land	Fixed Mechanical Equipment	Any Time	60 dBA
	All Others	7:00 AM - 11:00 PM	60 dBA
		11:00 PM - 7:00 AM	55 dBA

F. Specific Prohibitions

In addition to the general prohibitions set out above, the following specific acts are declared to be in violation of this Ordinance.

1) Horns, Signaling Devices

The sounding of any horn or audible signal device of any motor vehicle, boat, train, engine, machine or stationary boiler of any kind except as required by law or as a danger warning and the sounding of any danger warning device for an unnecessary or unreasonable period of time.

2) Radios, Television, Musical Instruments and Similar Devices

The operating or playing of any radio, television, phonograph, musical instrument or similar device which produces or reproduces sound in such a manner as to exceed the levels set forth in Paragraph E, or

The operating or playing of any radio, television, phonograph, musical instrument or similar device on the public rights of way or in public parks in a manner as to be plainly audible at a distance of one hundred (100) feet from the sound source.

3) Loud Speakers and Sound Amplifiers

The using or operating of any loud speaker, loud speaker system, sound amplifier or other similar device between the hours of 11:00 P.M. and 7:00 A.M., on weekdays and 10:00 P.M., and 10:00 A.M., on weekends and

holidays, within or adjacent to an inhabited residential area such that the sound therefrom is plainly audible across the property line of the inhabited residential property, however, this section shall not apply to any public performances, gatherings or parades lawfully held.

4) Street Sales Advertising

The use or operation of any loud speaker, sound amplifier or musical instrument which produces or reproduces sound which is cast or emitted upon the public streets and sidewalks for the purpose of commercial advertising or for attracting the attention of the public to any particular building, structure or place when such sound that is emitted is plainly audible across the property line of any inhabited residential property.

5) Machinery Construction Work

The operation of any machinery, demolition equipment, construction equipment, power tools, equipment of semi-mechanical devices or undertaking construction work which emits a sound plainly audible across the property line of an inhabited residential property between the hours of 10:00 P.M., and 7:00 A.M. However, this section shall not prohibit the use of temporary pumps or machinery which, because of its very nature and purpose, are required to be operated twenty-four (24) hours a day.

6) Lawn Equipment

To operate lawn and garden equipment which emits sound plainly audible across the property line of inhabited residential property between the hours of 10:00 P.M., and 7:00 A.M.

G. Variance Procedure

Any person desiring relief from the provisions of this Ordinance may apply for a variance to allow the creation of sound levels that would be otherwise in violation of this Ordinance, pursuant to the procedures set forth in Section 403 of the Palm Beach County Zoning Code.

The Palm Beach County Zoning Board of Adjustment may grant a variance upon a showing by the applicant that:

1) Additional time is necessary for the applicant to alter or modify the activity in order to comply with the provisions of this Article; or

2) The activity, operation or noise source will be a temporary duration and cannot be done in a manner that would comply with the provisions of this Article; and

3) No reasonable alternative is available to the applicant. Any variance granted pursuant to this section shall contain thereon all conditions upon which said variance has been granted, including but not limited to the effective date, time of day, location, sound level limit or equipment limitation and duration of variance.

H. Exemptions

The provisions of this subsection shall not apply at any time to:

1) Sound emitted from the operation of motor vehicles legally operating on any public right of way which are regulated by Chapter 316, Florida Statutes, Uniform Traffic Control Law provided, however, that this exemption shall not operate to exempt any sound emitting device which may be physically attached to any motor vehicles, such as radios, amplifiers, loud speakers or other similar devices.

2) Any noise generated by interstate motor and rail carriers and aircraft or airport operations. Any other subjects to the extent preempted by applicable State or Federal laws or regulations.

3) Any noise generated as a result of emergency work or for the purpose of alerting persons to the existence of any emergency.

4) Any noise generated by any public speaking or public assembly activities conducted on any public space or public right of way pursuant to lawful authority including sporting events.

5) Noise produced by domestic power tools, lawn mowers and agricultural equipment, when operated with a muffler, between the hours of 7:00 A.M., to 10:00 P.M.

6) Noise emitted from a source located within the IG district or IL district as defined in the Palm Beach County Zoning Code.

I. Public Nuisance/Injunctive Relief

Any emission of noise from any source in excess of the limitations established in or pursuant to this Ordinance shall be deemed and is hereby declared to be a public nuisance. Upon receipt of written complaint of violation of this Ordinance, the Director may investigate and request the County Attorney to file injunctive proceedings to abate said nuisance. Such proceedings shall be cumulative and in addition to the penalties provided herein.

1 J. Other Remedies

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2 Nothing in this section shall be construed to impair any
3 cause of action at law or in equity by any person for injury, damages or
4 other injunctive relief due to violations of this Ordinance.

5 SECTION II. SEVERABILITY OF INVALID PROVISIONS

6 If any section, subsection, paragraph, sentence, clause or
7 phrase of this Ordinance should be declared invalid for any reason whatsoever,
8 such decision shall not affect the remaining portions which shall remain in
9 full force and effect. To this end, the provisions of this Ordinance are
10 hereby declared to be severable.

11 SECTION III. REPEAL OF CONFLICTING LAWS

12 Any provisions of any ordinances or laws of Palm Beach County
13 existing on the effective date of this Ordinance, which are in conflict
14 with the provisions contained herein shall be deemed repealed to the extent
15 of such conflict. Subsection 500.16, Paragraph A., Scope, of Ordinance No. 73-2,
16 as amended, is hereby repealed in its entirety. The provisions of this
17 Ordinance shall be in addition to those prohibitions contained within Palm
18 Beach County Ordinance No. 79-16, Section XIX.

19 SECTION IV. EFFECTIVE DATE

20 This Ordinance shall take effect as provided by law.

21 APPROVED and ADOPTED by the Board of County Commissioners of
22 Palm Beach County, Florida, this 5th day of May, 1981.

23 PALM BEACH COUNTY, FLORIDA, BY ITS
24 BOARD OF COUNTY COMMISSIONERS

25 By: [Signature]
26 Vice Chairman

27 Acknowledged by the Department of State of the State of
28 Florida, on this, the 12th day of May, 1981.

29 EFFECTIVE DATE: Acknowledgment from the Department of State
30 received on the 14th day of May, 1981, at 10:30 A.M.,
31 and filed in the office of the Clerk of the Board of County Commissioners
32 of Palm Beach County, Florida.

33 APPROVED AS TO FORM
34 AND LEGAL SUFFICIENCY

35 By: [Signature]
36 County Attorney